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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,658	03/12/2004	Tsung-I Yu	YUTS3018/EM	6619
23364	7590	12/16/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			ALTER, ALYSSA M	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/791,658

Applicant(s)

YU, TSUNG-I

Examiner

Alyssa M. Alter

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 1-12 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, the claiming of structures being in contact with or implanted within the body, amounts to an inferential recitation of the body, which renders these claims non-statutory. The examiner recommends changing "for fitting a portion of the human body" within" to --adapted for fitting a portion of the human body--.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 11 recites the limitation "of claim 13". There is insufficient antecedent basis for this limitation in the claim. Since there is no claim 13, the claim has not further been treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3762

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-3, 6 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamazaki et al. (US 6,453,203). Yamazaki et al. discloses a pair of electrode tights with 6 pairs of conductive flat electrodes and conductive press-studs, which the examiner considers buttons. Furthermore, the tights are inherently made of electrically insulating material. If it were not, the electrodes tights would stimulate the entire body instead of the areas designated by the flexible electrodes. Yamazaki et al. also discloses the use of a pair of electroded gloves, as seen in figure 8.

As to claim 3, the “two adjacent flat electrodes EL5-EL6, ER5-ER6; EL4-EL5, ER4-ER5; EL3-EL4, ER3-ER4; EL2-EL3, ER2-ER3; and EL1-EL2, ER1-ER2 are supplied with electric pulse in the corresponding pulse-application pattern, thus stimulating, on either side, the rear side of the knee and the calf, the femoral region and the rear side of the knee; the hip and the femoral region; the inguinal region and the hip; and the underbelly and the inguinal region. Thus, the portions of the body supplied with pulses are selected sequentially to come closer to the center of the body. Positive and negative pulses are applied to selected paired portions of the body for the period of eight to ten seconds, and one to two second-long break appears before application of positive and negative pulses to subsequent paired electrodes”(col. 4, lines 16-30).

2. Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson (US Patent Publication 20040254624). Johnson discloses a stimulator and garment electrode that may be a stocking, socks, sleeve, wrap, glove or other type of garment as described on page 1, paragraph 10 and page 3, paragraph 28. The garment may also be a "compression garment" (page 1, paragraph 10).

Johnson discloses on page 2, paragraph 24, "the garment electrode 100 preferably comprises a first conductive region 112a to apply therapeutic energy having a first electrical polarity, and a second conductive region 112b to apply energy with a second electrical polarity opposite the first polarity; with the first and second conductive regions 112a, 112b separated by a non-conductive region 112c". The garment further includes "one or more metallic snap conductors" (page 2, paragraph 25) disposed on the garment, which the examiner considers to be the conductive buttons.

Conclusion

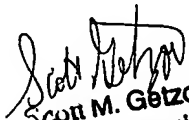
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

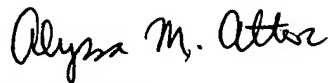
1. Yamazaki et al. (US Patent Publication 20030050673) discloses a belt device.
2. Yamazaki et al. (US 6,496,735) discloses a stimulating body suit.
3. Kirkland (US Patent Publication 20020077689) discloses a stimulating body suit.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Scott M. Getzow
Primary Examiner


Alyssa M Alter
Examiner
Art Unit 3762 